

ADDENDUM TO FINAL STATEMENT OF REASONS

In the Initial Statement of Reasons, the Department of Food and Agriculture cited Section 42684 of the Food and Agricultural Code as part of its' authority to establish, modify, or rescind any quality and maturity standard for any fruit, nut, or vegetable. After further review, the Department finds that Section 42684 does not apply.

The intent of the proposed regulation changes is to prevent deceptive agricultural practices, specifically, labeling of tomatoes as "vine ripened" and "greenhouse grown". The proposed regulation changes are not intended to imply that tomatoes not meeting the labeling criteria for "vine ripened" or "greenhouse grown" are not of good quality or unmarketable. We are simply establishing regulations that provide criteria for labeling tomatoes as "vine ripened" and "greenhouse grown".

Section 401 of the California Food and Agricultural Code declares that the California Department of Food and Agriculture Department) shall promote and protect the agricultural industry of California. Section 402 of the Food and Agricultural Code declares that the Department shall prevent fraud and deception in any of the packing or labeling, or any phase of the marketing of agricultural products. Section 407 declares that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of the Food and Agricultural Code which he is directed or authorized to administer or enforce.

Section 42681, subsection (c) states that the Secretary may make other such regulations as are reasonably necessary to secure uniformity in the enforcement of this division. Section 42682 states the Secretary may establish, modify, or rescind by regulation, standard container, lid, marking, or sizing requirements upon the petition of a person that the Secretary finds has a substantial interest in the growing or handling of the particular fruit, nut, or vegetable involved.

The Department has complied with 42682 and finds that Edward L. Beckman, President of the Advisory Committee to Standardization, on behalf of the California Tomato Commission, representing growers and handlers of fresh tomatoes to be a person with substantial interest. The Department finds that the proposed regulations are necessary to: 1) protect the integrity of the tomato industry as well as consumers from deceptive agricultural practices, 2) provide an equitable market place, 3) provide uniformity of enforcement, and will have a positive impact on the agricultural industry.

State of California

M e m o r a n d u m

To: Craig Tarpenning
Office of Administrative Law

Date: August 9, 2004

Place: Sacramento

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From: Department of Food and Agriculture – Sonja A. Dame, Staff Services Analyst
Inspection & Compliance Branch
Inspection Services

Subject: OAL File No. Z-04-0322-02

The Department of Food and Agriculture authorizes OAL to:

1. Substitute the attached regulation text for the text originally attached to the Form 400 that was submitted to OAL on July 7, 2004. The substitute text makes nonsubstantive corrections in order to have the text match the current text contained in the California Code of Regulations and to correct citations of authority.
2. Replace the original Table of Contents submitted on July 7, 2004 with the attached Revised Table of Contents.
3. Add the Addendum to the Final Statement of Reasons to the Rule Making file.
4. Add copy of missing email dated March 17, 2004 from Edward L. Beckman to the Rule Making file.
5. Change the effective date of regulatory changes on the Form 400 from "Effective on filing with the Secretary of State" to "Effective 30th day after filing with Secretary of State.

Sonja Dame